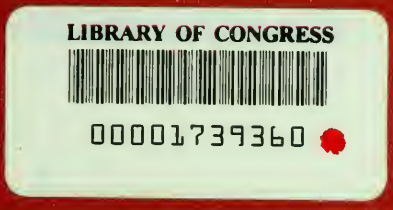

SPEECH

OF

MR. RANTOUL, OF MASSACHUSETTS,

ON

THE CONSTITUTIONALITY OF THE FUGITIVE SLAVE LAW.

DELIVERED IN THE HOUSE OF REPRESENTATIVES, JUNE 11, 1852.

The House being in Committee of the Whole, and having under consideration the bill making appropriation for the Indian Department.

Mr. RANTOUL said:

Mr. CHAIRMAN: The gentleman from Vermont, [Mr. MEACHAM,] who spoke yesterday, and the gentleman from Pennsylvania, [Mr. STEVENS,] who has just taken his seat, have addressed to me, individually, a large portion of the remarks which they have had occasion to make upon the subject of the tariff. Now, sir, I am not concerned, but that the common sense of the world, operating as it is upon both sides of the Atlantic, will set this question of free trade and protection right, without any assistance from me. I am not afraid that the people of the United States will be made to believe that the highest taxation is the greatest blessing. I am not afraid that the farmers of the West, by any degree of ingenuity, can ever be led to the conclusion that it is better for them to give two barrels of flour for a certain quantity of iron, rather than one barrel of flour for the same quantity of iron; and to that it comes. Gentlemen may talk by the hour together about this question. Reduce it down to its ultimate elements, and it is simply this for an agricultural nation: Do you choose, for the product of so many days' labor, to get a ton of iron; or would you prefer, for the same amount of labor, to get only half a ton of iron? If gentlemen of the West think two tons of iron better than one, and if they think they had better buy a given quantity with one barrel of flour rather than with two, then, I think, they will never aid Pennsylvania in screwing down labor, which has been the effect of protection in England, Spain, and France, and wherever it has been tried. I think they will never aid Pennsylvania capitalists in screwing labor to the lowest point, in order to carry out theories which have been tried over and over again, and failed wherever they have been tried.

Sir, the gentleman who last addressed the House addressed it very ably and very eloquently, but in a long series of historical facts, he is totally mistaken in his idea. The supposition that civilized nations have always adopted high protective tariffs, is ridiculously wide of the truth. Why, sir, the commerce of ancient nations, and the commerce of the middle ages, flourished in proportion to the freedom of that commerce, and it was the nations who adopted restrictive systems—the nations that adopted restriction and protection that ruined their commerce, and caused it to depart to other better-conducted nations.

Now, the gentleman meant to allude, as I suppose, although he did not specify it, to the Italian Republics of the middle ages, and to the great commerce which extended round the shores of the Mediterranean. Now, sir, the gentleman may go as far back as he pleases—he may go back to Athens, a Republic made great, and wealthy, and powerful by her commerce, and Athenian commerce was the creation of free trade—he may go back to the Roman Empire, and take the tariff under Diocletian, when the Roman commerce was at its height.

The tariff of the time of Diocletian was a tariff lower than that of England now, and that of England, as everybody knows, is a great deal lower than ours. Then you come down to the first tariff that was constructed upon scientific principles, after the downfall of the Roman Empire, which was that adopted under Godfrey de Bouillon, King of Jerusalem at the time of the Crusades, and put in operation in Syria, and which afterwards became a model for all nations around the Mediterranean, in Italy and everywhere else. You find that it is an "*ad valorem*" tariff, with very few exceptions, from beginning to end, and most of the duties are eight per cent., while some articles are put at sixteen per cent., and a very few, and those not important, at twenty-four per cent. Under this tariff, so much more liberal than any of later times, modern commerce had its birth. That is the truth of history, and it was the freedom of commerce in the Italian Republics that made them what they were. It was from their great commerce that their great wealth sprung up, and from their wealth grew up their immense manufactures, and not, as the gentleman supposes, that the commerce was created by the manufactures. He was putting the cart before the horse. But I am not going to make a speech upon the subject of the tariff now; but by-and-by, if the House will indulge me, after gentlemen from the

North, East, and particularly from New England, have said all they have to say in propping up that rotten system which has produced so much misery in England, and has the same tendency here, I will take the liberty to reply, and for the present, thinking it quite safe to do so, I leave these arguments without an answer.

I pass on to a subject of as much more consequence than the tariff, as liberty is more important than property. Liberty and property are the two great objects of good government. Government ought to protect them both; and I hold, that of the two, liberty is infinitely the highest in importance; and when rights and liberties are outraged, it becomes an imperative duty to speak upon that outrage, and set it right before the country.

I have been sitting here since the commencement of this session—ay, and it began before we took our seats here—I have been sitting here listening to denunciations of agitation, and agitators upon a certain subject, which has been handled a great deal upon this floor. "Cease this agitation! Quiet the distracted country!" That has been the cry. We were told that we must cease agitation upon that subject, at a meeting of the Democratic members, before we took our seats here; we were told so in a manner tending to promote agitation. We came here on the following Monday, and the first greeting that I received upon this floor, before we went into the election of Speaker, while I was sitting very quietly, as I generally do, being a quiet and peaceable man, was a denunciation of myself individually, by a member from the South, [Mr. MEADE, of Virginia,] who spoke of me as an agitator, coming here to stir up the nation into strife, to lash the waves of agitation into fury. I made no reply. Very strange for an "agitator!" Again and again, for at least the twentieth time, have I listened to the same denunciations, without replying. I have been taunted on the floor of this House with being an agitator. By whom? By gentlemen from the South. All the gentlemen who have risen here to denounce agitation, and to stir up bitter feelings by that very denunciation—all, I might almost say, have come from the South. And persons who sit quietly in their seats and hear epithets applied to them, which they can scarcely, as gentlemen, listen to without immediately resenting them; gentlemen from the North, who have exercised all this forbearance, are again, and again, and again, and seemingly without end, taunted in this manner by gentlemen who say that they desire quiet, and that agitation shall cease. If they do so desire, why do they not cease it? I and my friends have made no agitation. I have not opened my mouth before this House in any allusion to the subject of slavery, except in reply to a direct attack upon me. Again and again have I suffered such attacks to pass without notice or reply, but still the charge of agitation comes from another and another quarter, against me, and all those who think as I do.

Well, sir, after sitting quiet so long, disposed to leave to abler hands the work I am about to undertake, I am at last singled out in such a manner, that I cannot, as a man of honor, sit quiet any longer. I am compelled to speak by a necessity which I cannot avoid, without the imputation of cowardice, and, as I think, a justly-deserved imputation of cowardice, if I should remain quiet. That is my position. I speak not because I desire it, but because the men who say "put an end to agitation," compel me to speak, and will not allow me to remain silent. That is the reason why I intend at present to discuss this question.

I said, sir, that these taunts and sneers came from the South, but sometimes they came from gentlemen who happened to be born in the North. By what mysterious dispensation of Providence it happened that they were born there, it is not for me to conjecture. Why, there comes here from a district represented in the last Congress by an Abolitionist—an Abolitionist elected by the votes of the gentleman's friends—a young stripling, Hon. COLIN M. INGERSOLL, of Connecticut, who undertook to introduce Benedict Arnold as a subject of comparison on this floor. Well, sir, if Benedict Arnold is to be compared to members of this House, I, for one, claim the liberty to select the member with whom the comparison is to be made. Benedict Arnold, if I recollect aright, was born and brought up in Connecticut, and not in Massachusetts. He was a young gentleman of great promise—a gentleman from whom his friends expected something very magnificent, supposing him to be just the man fitted to rise in the world—a man troubled with no scruples. They were very seriously disappointed in that expectation. Benedict Arnold apostatized from the cause of freedom to the cause of slavery, if I have read history aright. His efforts against slavery did him honor. Ambition riveted about his neck the collar of slavery, and he was damned to eternal infamy. Well, sir, when gentlemen from Connecticut choose to make comparisons of that sort, let them read their history carefully, and see where a parallel will run; and not jump to find a parallel where there is nothing but a contrast. But, sir, (and that is my excuse for occupying the attention of the committee,) events have recently transpired, which are perfectly well known to every member of the committee, and, therefore, not necessary to be recapitulated in detail at present, which have singled me out, and made it my duty to explain my position. I am about to speak of this process of putting an end to agitation, so wisely conceived by these gentlemen, who must know, if they are sane men, they produce agitition by the course they pursue.

Sir, when six and a half millions of white men in the South attempt to control the feelings, opinions, judgments, and consciences of thirteen and a half millions of white men in the North—when that process is attempted, and when they undertake to drive it through by threats, by force, and by all those appliances which make men revolt against their dictation, they must understand that they have to do with the descendants of the men who commenced and who fought through the American Revolution, and whose characters have not materially changed—those of them who stay at home—however much those who come here may be corrupted by the influences which surround them here—I say, those who remain at home have not very much departed from their original character. I allude to the circumstances which recently occurred at Baltimore, as my reason for addressing the committee at this time. Sir, I was unanimously elected a delegate to the National Democratic Convention by ballot, and on the first ballot, in the fullest convention that has been held in my district for many years—a convention regularly called, according to the uniform usage in Massachusetts for the last twenty-five or thirty years. I was sent there to represent five thousand Democrats, who act with the party in its

regular organization. The convention thought proper to disfranchise my district—the only Democratic district in Massachusetts—and thought proper thereby to insult, not merely that district, but the sovereign State of Massachusetts, which was shorn of her proportionate share of representation in the convention by that proceeding.

They then thought proper to go on and take measures for the union of the Democratic party. Is any one Democrat in Massachusetts bound by what you do in such a convention? I speak not of the course which those Democrats may think proper to take. That is a matter for them to determine. But I ask if any one Democrat in the State of Massachusetts is under any obligation growing out of the preceedings of a convention in which the State of Massachusetts was deprived of her proportionate number of delegates elected by her choice? That is a question for the Democratic party to consider, and for the Democrats of Massachusetts to consider.

As to the district which has been thus disfranchised, why, sir, if there is a district in the United States, from the Madawaska to the Rio Grande—if there is a district from Massachusetts Bay to San Francisco that is, and ought to be Democratic, it is the district that I represent; and I should like to compare its history with the history of any other district represented by any other individual upon this floor.

Sir, in my district is that glorious old town of Marblehead. Elbridge Gerry, coming from the town of Marblehead, was the chairman of the committee that reported the resolutions of the 30th of April, 1784, giving the power to regulate commerce to the Government of the nation—the resolution that laid the foundation of your Federal union. It was a citizen of my own native town of Beverly, and a native of my own district, Nathan Dane, who was chairman of the committee that reported the resolves of the 21st of February, 1787, for calling the Federal Convention at Philadelphia—the Convention that framed the Constitution of the United States; and that same Nathan Dane, of that same town of Beverly, was the man who drew up the ordinance of 1787, which gave freedom to the broad territory Northwest of the Ohio.

Well, sir, if I stopped there, I think I should have made out a list of claims for my district which it would not be very easy to surpass. But, sir, the first resistance to the power of Great Britain in the revolutionary struggle was in the town of Danvers—a town in my district, and which adjoins my own. On the 26th of February, 1775, before the battle of Lexington, that which was done at Lexington and Concord was attempted to be done at Danvers. The British troops marched upon the town to seize the arsenals and stores of the Americans, but they were turned back. They were met by a collection of the farmers and mechanics of Salem, Beverly, and Danvers, so strong that Colonel Leslie, who commanded the British troops, turned back discomfited of his purpose, knowing that unless he did do so, he and his party would be made prisoners-of-war. Danvers, far distant from Concord, and in a different county, had more men killed in the Concord fight than any other town after the morning massacre. Beverly, my native town, sent her sons further than any other town on the 19th of April, 1775, to strike in the first battle for liberty; and I have seen the garment, stained with his blood, in which one of her sons was killed on that day. The first Continental flag hoisted upon the ocean, in defiance of British supremacy, was the flag of the schooner "Hannah," fitted out from my own town of Beverly. The first commission given by Washington to the commander of any cruiser against Great Britain, was issued to Captain Manly, of Marblehead, in my district. The first in the long list of naval heroes; the first man who poured out his life in that great war against slavery, crying, as Lawrence afterwards cried, "don't give up the ship," was Captain Mugford, of Marblehead, on the 19th of May, 1775.

There is the material out of which to form a Democratic Congressional district. It is a district that has bright revolutionary glory—historical glory thickly clustered around it. It is not to me that the insult has been offered, but it is to that district which I have described to you.

Why, I ask, is it that this insult has been offered? It is simply because, as I told the committee who examined that case, when they asked me if I would pledge myself beforehand to agree to the resolutions which might be adopted by that convention, "I do my own thinking, and do not allow any convention to do it for me." That is the reason. Well, now, do gentlemen suppose there are not some millions of white persons at the North, who do their own thinking, as well as myself? If they suppose any such thing, they are grievously mistaken, and by and by the consequence of that mistake will begin to appear, a little more clearly than they now appear. It is because I determined to think for myself, and adhered to that determination, upon a great question of constitutional law; and thought it a duty incumbent upon me to avow the conclusions at which I had arrived.

That question of constitutional law I now propose to examine. It is this: Is there in the Constitution of the United States a grant of power to legislate for the rendition of fugitives from labor? I say there is not; and no man who calls himself a Democrat—whether he hails from New Hampshire, or any other part of the Union—can for a moment sustain his character as a Democrat upon the position that there is such a grant of power. Why, sir, what is the distinguishing doctrine of the Democratic party? I suppose it is the doctrine laid down by Jefferson, in his comments upon the proposed veto of the first United States Bank. Thomas Jefferson says: "I conceive the corner-stone of the Constitution to be laid in the tenth article of the Amendments to the Constitution;" the article that no powers can be exercised by the General Government except such as are granted to it; that powers not granted to the General Government "are reserved to the States or to the people." That is the foundation of the Democratic faith, so stated to be by Thomas Jefferson, so understood to be by Samuel Adams and Elbridge Gerry, and all the old Democrats of New England as well as by Virginia, and the Democrats in the South; and that is the doctrine upon which I mean to take my stand. That is the doctrine of the Baltimore resolutions *as they were;* the doctrine of the resolutions of 1798, '99, adopted at Baltimore the other day, which gentlemen talk about in such a way as to lead one to suspect that they have not read them—the doctrine of the resolutions of 1798, '99, which declared the alien and sedition laws to be unconstitutional by a course of reasoning which applies as strictly

to this question of the fugitive slave law as it does to the alien law, or the sedition law, or to any section or clause of either.

But the State of New Hampshire, when the constitutionality of the alien and sedition laws came up in her Legislature, voted unanimously, in a full House, *one hundred and thirty seven members being present*, and unanimously in the Senate, that those laws were clearly "*constitutional*, and, *in the present critical situation of our country*," said they, "*highly expedient.*" Is there a man in New Hampshire who believes that now? New Hampshire blushes when that page of her history is recalled to the memory. It was then the unanimous opinion of the Senate and House of Representatives of New Hampshire, that the ALIEN AND SEDITION LAWS were "CONSTITUTIONAL." It is the unanimous opinion of New Hampshire now, that they are UNCONSTITUTIONAL; and, sir, the day will come when every man's children will blush for his servile heresy upon this question, as the men of New Hampshire now blush for what their fathers did upon that question.

The question of the constitutionality of such a grant of power is within a very narrow compass. It is only necessary to take up the history of the clauses included in the FOURTH ARTICLE of the Constitution, and see where they came from, what they mean, and what changes they underwent. Sir, everybody knows that the Constitution contains an enumeration of powers granted to Congress. The powers granted to Congress stand by themselves, as they did in the old Articles of Confederation. In another part of that instrument, distinct from the enumeration of powers granted to Congress, you find certain clauses of compact. I suppose there is not a man in this House who will undertake to deny that there are clauses of mere compact in the Constitution—clauses of compact between the States, which imply no grant of power whatever to the Federal Government. The whole question is, *does the clause relating to fugitives from labor, belong to that class of clauses which give power to the General Government, or is it simply a clause of compact between the States?* That is the question.

Well, now, sir, the Continental Congress resolved, on the 11th of June, 1776, to appoint a committee of one from each Colony to report articles of confederation. The next day the committee was appointed, and Samuel Adams, of Massachusetts, was the member from that State, upon it. On the 12th of July, 1776, a little more than a month afterwards, this committee reported the articles, which were debated, from time to time, and adopted by Congress on the 15th of November, 1777. They were ratified by the States, one after another, until Maryland, the last on the list, acted upon them on the 1st of March, 1781.

The first article establishes the style of the Confederacy—it shall be "The United States of America." The second article is the key to the whole; and is therefore very important to be considered. It determines that the government to be established for the management of the general interests of the United States, shall be strictly held, and confined within the limits of powers expressly granted by the act of confederation. It is in these words: "Each State retains its sovereignty, free-'dom, and independence, and every power, juris-'diction, and right, which is not, by this Confed-'eration, EXPRESSLY DELEGATED to the 'United States in Congress assembled."

No implied powers there! "*Expressly delegated.*" This, I say, is the corner-stone of the whole system of the Confederation—State-rights jealously preserved; a few powers clearly defined are granted to a Congress, which is sternly prohibited at the outset, by the first fundamental regulations of its existence, from assuming any scintilla of power not so granted.

There can be no difficulty, then, in ascertaining what powers belonged to the Congress under the Confederation. We have only to read the enumeration, and we shall find them all *expressly delegated;* none others existed.

Let us proceed, then, with our examination of the several "Articles of Confederation and Perpetual Union."

By the THIRD article, the said States "severally enter into a firm league of friendship;" but no power is granted to Congress.

By the FOURTH article, the free inhabitants of each State, except paupers, vagabonds, and fugitives from justice, are "*entitled to all privileges and immunities of free citizens in the several States;*" but no grant of power is connected with this particular provision of the compact.

A *second clause* of the same article is in these words: "If any person *guilty of, or charged with,* 'treason, felony, or other high misdemeanor, in 'any State, shall flee from justice, and be found in 'any of the United States, *he shall*, upon demand 'of the Governor or executive officer of the State 'from which he fled, *be delivered up*, and removed 'to the State having jurisdiction of his offense." The power to deliver up the person guilty, or charged, is *not* "expressly delegated to the United States," but "each State retains" that power, as entire, and unimpaired, and unquestioned, and unquestionable, as if the Confederation had never been brought into existence.

A *third clause* of the same article is in these words: "Full faith and credit shall be given in 'each of these States, to the records, acts, and 'judicial proceedings, of the courts and magistrates 'of every other State." The Congress had no power to enforce, or to regulate, this stipulation of the compact. Each State retained unimpaired, and unquestioned, all and "every power, jurisdiction, and right," over the *manner* in which this agreement should be performed, and the *effect* of that performance.

Now, the substance of this FOURTH article of Confederation—the substance of each of the three clauses of this fourth article—has found its way into the Constitution of the United States, constituting, together with certain additional provisions to be considered by-and-by, the first and second sections of the FOURTH ARTICLE of that instrument.

How came these agreements of the old compact of 1777 into the Federal Constitution of the 17th of September, 1787? What changes have they undergone in passing there? What effect and force, in their present form, do they now carry with them? Are they, by any means, transformed from mutual stipulations between contracting parties, into grants of power, by parties surrendering what they had retained and reserved to themselves for ten years, to a new administration of the powers, jurisdiction, and rights, in this behalf, then for the first time delegated to the United States?

If so, how, when, why, by whom, by what apt words to express the transformation of these mutual covenants into delegations of power, was this

new grant first made, and where in the record, do you find it written down?

We will trace the subsequent history of these stipulations of the old Confederacy, and examine, first, the process to which they have been subjected, the changes resulting from it, and the additions they have received, and when we have sufficiently considered the clauses by themselves, we will inquire whether they are affected by their relation to other parts of the same instrument, and whether any different rule of construction is to be applied to interpret them, so as entirely to change their character.

It does not appear that any complaint was made of the non-performance of either of these three stipulations by any State, either in the Continental Congress during the ten years that followed the adoption of the Articles of Confederation, or in the Constitution Convention during its whole session, or that any apprehension of such non-performance in future was expressed from any quarter. Nor does it appear that any objection was raised against the clause concerning the faith due to public records, or that concerning fugitives from justice.

It was, however, as it would appear, repugnant to the sentiments of South Carolina to guarantee all the privileges of free citizens of her own State to the colored free inhabitants of other States. On the 25th of June, 1778, South Carolina accordingly moved to insert the word "*white*" in article fourth, clause first, between the words "free inhabitants."

On this proposition the States voted—ayes 2, noes 8, divided 1; and the motion was rejected; the two ayes were South Carolina and Georgia.

South Carolina moved, after the words "several States," to insert "according to the law of such States respectively, for the government of their own free *white* inhabitants." On which motion the ayes were 2, the noes 8, divided 1; and it was rejected.

South Carolina was unable to repeal that clause of the old Confederation, or prevent its passing into the new Constitution. But she has found a very convenient way of escaping its consequences since that time, and calls upon other States to fulfill their agreements in these articles of compact, a portion of which, understanding it perfectly well, as she showed by trying to change it, she still goes on coolly and deliberately, and habitually, and perseveringly to violate.

No other change seems to have been suggested in either of these clauses in the Continental Congress during the whole period of ten years.

On the 21st of February, 1787, a grand committee, of which the Hon. Nathan Dane, of Beverly, Massachusetts, was chairman, recommended a meeting of delegates from each State to revise the Articles of Confederation. On the motion of the delegates from Massachusetts, it was resolved to call a convention for that purpose, to meet at Philadelphia on the second Monday in May.

Sundry members met on that day, May 14th, 1787, but the Convention did not elect their president, George Washington, until the 25th. On Monday, the 28th, they adopted their rules and orders, and on the 29th, they proceeded to business. On that day, Charles Pinckney, of South Carolina, submitted a draft of a constitution, which became the basis of the further action of the Convention.

In this draft, the twelfth and thirteenth articles were as follows:

"ART. XII. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. Any person charged with crimes in any State fleeing from justice to another, shall, on demand of the Executive of the State from which he fled, be delivered up, and removed to the State having jurisdiction of the offense.

"ART. XIII. Full faith shall be given, in each State, to the acts of the Legislature, and to the records and judicial proceedings of the courts and magistrates of every State."

There is no reason to suspect, therefore, that it had occurred to South Carolina at that time to convert either of these clauses into a grant of power, or to insert among them any provision for the case of fugitives from service. Neither of these changes had been thought of either by South Carolina or, so far as we know, by any other State. That these clauses, as they stood in the Articles of Confederation, were so far satisfactory to all sections and to all parties as not to be among those provisions of the compact which it was desired to revise, and which the Convention had come together expressly to reform, seems to be quite evident, not only from the facts already stated, but also from the circumstance that in the *six other* plans submitted to the Constitution Convention, in the form of resolutions, imbodying the views of leading statesmen, and of the different parties struggling to mould the new institutions upon principles in some respects widely diverse from each other, neither the faith due to public records, nor the immunities mutually pledged to citizens, nor the extradition of fugitives from justice, nor the extradition of fugitives from labor, is so much as once alluded to. Yet the very object of all of these resolutions was to bring forward and present for discussion the views of their authors upon all the disputed points involved in the mission of the Convention. The plans to which I refer were Edmund Randolph's fifteen propositions, presented May 29th; Mr. Patterson's eleven propositions, presented June 15th; Colonel Hamilton's plan in eleven propositions, presented June 18th; Randolph's plan as amended, and again submitted in Committee of the Whole, in nineteen resolutions, June 19th; the report of the committee of detail on the twenty-three resolutions, July 26th; the report of the Committee of Eleven, made September 4th, and for several days afterwards. *Neither of these plans contains any allusion to the question of fugitives from service*, now insanely imagined by the fanatics of slave-worship to have been one of the leading "compromises of the Constitution"—a thing which no man in the convention which formed the Constitution dreamt of until it was suggested in another assembly, and upon another occasion, and for another purpose. On the 18th of June, the same day in which he submitted his plan, Mr. Hamilton read, as part of his great speech, his complete draft of a constitution, in which the clauses already given from Pinckney's draft reappear in the following shape:

"ART. IX.—SEC. 5. The citizens of each State shall be entitled to the rights, privileges, and immunities of citizens in every other State; and full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of another.

"SEC. 6. Fugitives from justice from one State, who shall be found in another, shall be delivered up on the application of the State from which they fled."

This draft of Mr. Hamilton is a carefully-finished production, carried out into all the minute details, and giving the author's matured opinions what the Constitution ought to be in every one of its provisions. This gentleman represented the ultra federal, consolidation, monarchical tendencies of the Convention more fully and frankly than

any other member; and was most desirious to multiply and extend grants of power to the Federal Government. He carried this notion so far as to desire that the legislation of each State should be controlled by the United States; and to effect this object, in the tenth of the resolutions offered by him on the 18th of June, he proposed that the Governor of each State should be appointed by the General Government, and have a veto upon all laws about to be passed in the State of which he was Governor. This, with his President and Senate for life, as proposed in the same resolutions, would have constituted a consolidated monarchy.

Mr. Charles Pinckney, of South Carolina, was the champion of the sectional slave interest, and he also declared, in the debate on the 23d of August, that he thought the State Executive should be appointed by the General Government, and have a control over the State laws by means of a veto. Neither Mr. Hamilton, nor any other friend of the Northern monarchical interest, nor Mr. Pinckney, nor any other Southern friend of the sectional slave interest, had suggested in their drafts, or resolutions, or speeches, or in any other way; still less had any friend of Democratic freedom and State-rights suggested, before the 28th of August, to give Congress any power over either of the three subjects of compact, viz: credit due to records, immunities of citizens, and fugitives *from justice;* nor had any one alluded in the Convention to the subject of fugitives *from service.* On the 6th of August, about a month after the principal compromises had been settled, and the difficulties surmounted, a committee of five—of which John Rutledge, of South Carolina, was chairman—reported a constitution entire, a printed copy being handed on the same day to each member. In their report, the fourteenth, fifteenth, and sixteenth articles are as follows:

"ART. XIV. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

"ART. XV. Any person charged with treason, felony, or high misdemeanor in any State, who shall flee from justice, and shall be found in any other State, shall, on demand of the Executive power of the State from which he fled, be delivered up, and removed to the State having jurisdiction of the offense.

"ART. XVI. Full faith shall be given in each State to the acts of the Legislature, and to the records and judicial proceedings of the courts and magistrates of every other State.'

On the 28th of August these paragraphs came up in order for consideration. Article fourteen was taken up. General Pinckney (Charles Cotesworth Pinckney) was not satisfied with it. He seemed to wish some provision should be included in favor of property in slaves. Article fourteen was adopted—ayes 9, no (South Carolina) 1, divided (Georgia) 1. Article fifteen, the words "high misdemeanor" were struck out, and "other crime" inserted. Mr. Butler and Mr. Pinckney, (Mr. C. Pinckney,) both of South Carolina, moved to *require* "fugitive slaves and servants to be delivered up like criminals." Mr. Wilson, of Pennsylvania, said, "this would oblige the EXECUTIVE OF THE STATE to do it at the public expense." Mr. Sherman, of Connecticut, saw no more propriety in the public seizing and surrendering a slave, or servant, than a horse. Mr. Butler does not object to either objection; but he undertakes to change his proposition "He withdrew his proposition, in order that some particular provision might be made apart from this article." Article fifteen was then adopted unanimously.

Thus far there is no indication of any intent to make a grant of power. Butler's motion to require slaves to be delivered up, was to "*require*" THE STATES *to do it*—not to empower Congress to do it; or rather, to authorize the NATIONAL EXECUTIVE to do it. Wilson's objection shows this understanding: it would oblige the Executive OF THE STATE to do it AT THE PUBLIC EXPENSE, as happens when one State demands from another a fugitive from justice. Sherman thought THE PUBLIC had no more cause to seize a slave than a horse. How did Butler propose to obviate this objection? Was it by transferring the duty and expense from the lesser public, the State, to that greater public, the United States? It was by giving to the master the same authority to recover his servant that he had already to recover his horse; and it goes no further. A Virginian horse would be property in Pennsylvania. A Virginian negro held to service, might not be property in Pennsylvania. The Constitution stipulates that the character of property attaching to him before his escape, shall cause to attach to him in any State to which he may flee, whatever may be the laws of that State, a right of reclamation A horse so escaping must be delivered up; so also must be a fugitive from labor. And that is all.

When gentlemen imagine that the Constitution has attributed to the negro held to service—to that description of property—the character of sacredness that does not attach to any other property whatever, they misread the Constitution, and misjudge the men who framed it. Than have done what you impute to them, some of them would sooner have had their right hands cut off; yet the clause, as it now stands, *passed unanimously.* The strict attention of very sharp intellects was drawn to this very question which I have been discussing, in that Convention, and they settled it with their eyes wide open, and as I have; as I will prove to this committee. Article sixteenth of the draft was that concerning public faith in the acts of the Legislatures and records, and judicial proceedings of the courts and magistrates of the several States. That was the last in this series of compacts. What did the Convention do with it?

August 29, Mr. Williamson (of North Carolina) moved to substitute in place of article 16th, "the words of the Articles of Confederation on the same subject. He did not understand precisely the meaning of the article." Mr. Wilson and Dr. Johnson said it meant "that judgments in one 'State should be the ground of actions in other 'States; and that acts of the Legislature should be 'included, for the sake of acts of insolvency."

Mr. Pinckney moved to commit it, with a motion for *a power* to pass bankrupt laws, and to regulate damages on protested bills of exchange. Mr. Madison favored the commitment, and wished *a power* to be given to Congress "to provide for the *execution* of judgments in other States. He thought this might be safely done." Mr. Randolph thought there was no instance under heaven of *one nation* executing the judgments of another. He had not been graduated in the modern Virginia consolidation school. Gouverneur Morris moved to commit also a motion to give to Congress power "to determine the *proof* and *effect* of such acts, records, and proceedings." *Nobody dreamed that there was a power in the article already.* Many thought one should be inserted. It was committed.

It became the opinion of the majority that they had better attach to the compact a clause giving power to Congress over that subject, the faith to be given to records.

John Rutledge, of South Carolina, was the chairman of the committee to which these clauses were referred to make the change. They took the clause which stood last in order and transferred it to the head of the list, where it now stands, attaching to it power to Congress to act upon the subject. There it stands. Were these men so simple as not to know whether a grant of power was necessary to be added, in express words, to enable Congress to determine the effect of public acts, records, &c., in another State? Congress had the power already, as the article stood, if they have any power under either of the other clauses over fugitives from labor, or over either of the other subjects of either of these clauses of compact. But so thought not John Rutledge, of South Carolina, who reported the grant of power; James Madison, of Virginia, who desired a grant of power, and favored a commitment for that purpose; Gouverneur Morris, a high-toned Federalist, who could find constructive powers wherever Hamilton could find them, but *could find none here*, and therefore asked for an express grant. All these clauses were in the Confederation originally, and articles of compact *there*, and nobody had ever pretended that they were anything else *there*. All the four clauses are still in their language, in terms, in their obvious—one might almost say, in their only possible construction, articles of compact. Still, it is agreed to attach to one of them a grant of power, and not to the other three. The Convention takes out that fourth clause, makes it the *first*, and says Congress *shall have power* to determine the effect to be given to the public records of the States. Where did Congress get that power from, in either of the other clauses of compact where it is not given? Why did Congress have that power given to them by express words in that clause, if the Government had it already in *all* these clauses, as they must, *if they had it in either?* These were not men to waste words. There is not a document in the language of any human race which treads the face of the globe, so carefully considered in the effect of every word, as the Constitution of the United States. When the constitutional Convention saw they had not made a grant of power in either of these four clauses, and came to the conclusion that they had better make it as to one of them; they knew what to do. They picked out that clause, put it at the head of the article, and said Congress shall have power to determine, by law, what shall be the effect given to public records. Why did they not say: "CONGRESS SHALL HAVE POWER TO PROVIDE FOR THE RENDITION OF FUGITIVES FROM LABOR?"

That is what they would have said had they so meant. They did not so mean, and therefore they did not say it. And this is the only reason which the ingenuity of man can divine for the omission to express a grant of power in this clause of a Constitution, which grants no powers except those given in so many words, or those which, being subsidiary in their nature, are essential to the carrying into exercise of powers granted in so many words. Where they desired a power, the clause was changed. Who made that change? Was this a cunning devise of Northern men? John Rutledge was chairman of the committee appointed on the 29th of August, that reported that clause as altered, giving the power to Congress. Mr. Pierce Butler, General Pinckney, and Mr. C. Pinckney, the three other members from South Carolina—for there were but four in all—had, each of them, had his attention called to this subject on the very day before that on which the committee was appointed, they had, each of them, alluded to it in the Convention, and nobody else had done so, in the debate of August 28th. Three members from South Carolina—each having his attention specially called to the subject of fugitives from labor, on the 28th of August—that subject brought up again on the 29th. John Rutledge was chairman of the committee of five, appointed on the 29th, when Mr. Butler moves the clause of fugitives from labor, and that committee of five, who reported this clause on the first of September, took the ground that the power to legislate on the proof and effect of public acts, must be expressly granted. On the 3d of September another debate took place, on granting this power, in which Madison, Gouverneur Morris, Colonel Mason, Mr. Wilson, Dr. Johnson, and Mr. Randolph participated, with various views. No one suggests that the clause will give a power, although none be expressed. The doctrine of implied powers had not then been strained so far. No one suggests a power over fugitives from labor. Slaveocracy had not then ventured so far. It would have been rejected at once. But the clause as it stands passed unanimously.

Does it not make a clear case? I would like to see those profound lawyers of New Hampshire, or Virginia, or anywhere else, show us how the power was put into this clause of fugitives from labor, which was not originally there; and who put it there; and where, and how Roger Sherman and Elbridge Gerry were induced to put it there. John Rutledge put it there, in the clause of faith and credit to records; but he did not put it into the other clause. He had a reason for putting it in the one clause, and he had a reason for omitting it in the other clause. When Colonel Mason, on the 22d of August, only a week before this clause was unanimously adopted, told the world that "every master of slaves is born a petty tyrant. 'They bring the judgment of Heaven on a coun-'try. If nations cannot be rewarded or punished 'in the next world, they must be in this. By an 'inevitable chain of causes and effects, Providence 'punishes national sins by national calamities." * * * "*He held it essential, in every point of 'view, that the General Government should have 'power* TO PREVENTTHE INCREASE OF SLAVERY—" When that far-seeing Virginian, who seems to have anticipated the history of Virginia in the nineteenth century, uttered these memorable words in the Convention, do you suppose that he was contriving a Government to be used as a great negro-catching machine, and that should be good for nothing else—to be broken up the moment it ceased to perform that function, as seems now to be the prevailing opinion among the demagogues of both parties? Do you suppose for a moment that James Madison, Thomas Jefferson, Patrick Henry, George Washington, George Mason, and other Abolitionists of that day—to use the word as we hear it used every day in Congress—imagined that a provision so abhorrent to their general views had been inserted in the Constitution, and did not make it the subject of indignant comment in the Convention or out of the Convention? Mr. Madison would not suffer the black and odious name of slave to be named in the Consti-

tution. Is it conceivable that he meant to enroll the hunting-down of the fugitive slave among the highest duties of the Government founded under that Constitution, as our present Administration esteems it to be?

Are we to believe that one half of the Convention, being honest and firm men, belied all the instincts of their hearts, all the prejudices, if you choose so to phrase it, of their education, all that devotion to the principles of liberty in the abstract, which the Revolution had developed, and made themselves parties, without a particle of inducement held out to them, without a word of remonstrance from one of them, to an eternal national slave hunt? Are we to believe this, not only without evidence, but against all the evidences? Let me remark upon the strangeness of this fact. Among the thousand letters which were written by leading members of the Constitution Convention, or of the State Conventions at the South, and at the North, never was there anything produced that would lead one to suppose for a moment that the Convention, or any man in it, or any man out of it, in the year 1787, suspected that the clause relative to fugitives from labor, contained a grant of power.

Not a solitary letter, speech, journal, memorandum, or record, of any description has been brought forward, which contains the explanation which is now put upon this clause for the purpose of impairing State rights—helping to build up a consolidated system of Government, which is centralizing power, and growing stronger and stronger every day and every hour, without casting into the vortex to be swallowed up in the Federal maelstrom, the State institution of slavery!

Do the Southern gentlemen know what they are doing? Do you mean to throw the whole power over the subject of slavery into the hands of the Federal Government? You do it here.

Do gentlemen desire that two thirds of the white men of the country—aye, a great many more than two thirds very soon, for by the next census we shall have at least twenty-one millions of white people at the North, and nine millions, at the utmost, at the South—do gentlemen desire that those twenty-one millions of people should take this subject of slavery into their hands—to let it agitate, and agitate, and convulse the whole nation, until it shall finally be treated, as it will be treated, if it becomes the fuel of a universal conflagration through this land? Let Southern statesmen take warning in this matter. I desire to stand upon the Constitution, your only rock of safety, in this terrible future, glimpses of which are opening upon us—to stand there, because I think I can stand there safely, and nowhere else.

When I said that John Rutledge, of South Carolina, was the man who reported the grant of power in the one clause, but that he did not report any such grant in the other clause, I had not exhausted the argument. The clauses underwent another scrutiny; they passed another ordeal. This matter was committed to a committee of eleven for revision. It came back in essentially the same shape. Who was upon the committee of revision? Charles Cotesworth Pinckney, of South Carolina, was one of that committee of eleven. His attention had been drawn to this subject, the reclamation of fugitive slaves, for he had not only taken part in the discussion of the subject on the 28th, but he was the individual member who first introduced it to the notice of the Convention. If he wanted a grant of power, he knew how it was to be expressed, for the clause in which the grant of power was inserted on the same day *that the fugitive from labor clause was adopted*, was also before that committee. James Madison, a sound and a keen constitutional lawyer, was one of that committee. Luther Martin, of Maryland, was also of that committee. If ever there was a strict constructionist, Luther Martin was one; and he also, as well as Mr. Madison, was a sound constitutional lawyer, as the gentleman from Virginia, [Mr. BAYLY,] who reviewed this matter the other day, will allow. If the committee intended a grant of power, would Luther Martin have left it to be implied, and that, too, in such a manner that it requires your optics to be sharpened by a judicial decision to discover the implication?

Williamson, of North Carolina, was also of that committee. Here were men who would look to the interests of the South, and if they meant a grant of power, express a grant of power. Why did they not do it? Why did they not put it there? They have not put it there. Perhaps they did not want it; perhaps they wanted the power, but knew they could not have it. One or the other is the natural and true interpretation. This clause came from the ordinance of 1787, passed by the Congress of the Confederation—a clause that there should be no slavery northwest of the Ohio, and that a fugitive flying from labor into that territory should be delivered up.

That was a compact, and that compact we could not fail to understand. It contained no grant of power. It is not materially changed as to this point. Trace out its history; it is easy to find what that compact was, and whence it came. It was copied from an old New England compact, made in the year 1642, between Massachusetts Bay and her neighbor colonies. Afterwards, substantially, the same compact was renewed, and extended a little further, but granting no power—simply an agreement to return each other's runaway servants. This is the whole history of it. Nathan Dane copied a familiar provision of New England policy from those old contracts into the ordinance, which made the whole Northwest FREE SOIL forever.

Mr. Jefferson in 1784 attempted to make ALL the territory then belonging to the United States free soil. He attempted to exclude slavery by an organic ordinance from Alabama and Mississippi, and all the Southwest, as well as the Northwest. It was defeated by the vote of Mr. Spaight, of the State of North Carolina. If Spaight had been a Jeffersonian Democrat that day, there would have been no slavery west of the Alleghanies. Mr. Jefferson proposed to exclude slavery, but *did not provide for the rendition* of fugitive slaves. That was Thomas Jefferson's plan in 1784.

[Here the hammer fell.]

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